# Government Response to the Report of the Workplace Safety and Health Review Committee

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**Minister of Labour and Immigration**

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FIVE OF EVERY 100 MANITOBA workers are away from work each year as the result of a workplace injury.

Manitobans have made it clear that this is an unacceptable level of suffering and injury.

At public hearings of the Workplace Safety and Health Review Committee in 2001, Manitobans called for measures to reduce this injury rate. In response, the Review Committee prepared a report that sets clear goals for reducing injuries and provides a blueprint for creating the sort of health and safety culture that will allow Manitobans to reach those goals.

The Manitoba Government accepts the Review Committee's five-year injury reduction target of 25 per cent in the Workers Compensation Board provincial time-loss injury rate.

To achieve this goal, the Review Committee recommended that the Manitoba Government, in partnership with the Workers Compensation Board, lead a sustained provincial initiative to create a strong workplace safety and health culture in Manitoba. This culture would be based on action in four priority areas:

- public awareness and education
- training for employers, supervisors, and workers
- prevention measures and standards
- internal and external responsibility systems

This was the cornerstone recommendation of the Review Committee Report. The Government not only embraces this recommendation—it is pleased to report that implementation has commenced. To cite only two examples, the Workplace Safety and Health Division and the Workers Compensation Board have commenced work on the proposed public awareness campaign, and a Provincial Farm Safety Coordinator has been appointed.

The Review Committee underscored the heightened risks faced by young workers. We owe it to our children to take up the challenge laid down by the Committee.

In coming weeks, legislative changes based on the Committee recommendations will be introduced. The changes introduced in this session will promote clarity and consistency

in application and enforcement.

Following the legislative session, management, labour, and technical-professional representatives will be asked to participate in a review of Manitoba's safety and health regulations. This process, which will be based on the consultative model that is used to review regulations for the mining industry, will lead to an updating and modernization of provincial safety and health regulations.

## Background

In September 2001, the Manitoba Government established the Workplace Safety and Health Review Committee. The Review Committee members were Wally Fox-Decent (chairperson), Chris Lorenc (management representative), Peter Walker (labour representative), and Ilana Warner (professional technical representative). The Committee was charged with reviewing the provincial strategy to reduce workplace injuries and *The Workplace Safety and Health Act*. Hearings were held throughout the fall and early winter of 2001. The Committee presented its report, *Building a Workplace Safety and Health Culture*, to the Manitoba Government in January 2002. The report contained 62 recommendations, each of which received unanimous support from the members of the Review Committee. That unanimity reflected the hard work that the Committee devoted to this important task.

The Review Committee Report was released in February 2002 for additional public comment. The deadline for feedback on the report was March 22, 2002.

The Manitoba Government would like to thank the Committee members and all Manitobans who participated in the review process. The issues that were addressed remain urgent; the guidance that has been provided will be invaluable.

**The Environment**

The Review Committee spoke of the need to link environmental concerns to workplace safety and health, pointing to examples where such initiatives were already in place. Many workplace safety and health issues are intrinsically bound up with environmental issues: fumes that are hazardous in a workplace may well be hazardous to the general public.

In amending *The Workplace Safety and Health Act*, updating safety and health regulations, and in developing safety and health policy, this government will be mindful of the environmental impact of the changes it is proposing. At the same time the prime responsibility for regulating environmental issues will remain with Conservation Manitoba.

## Building a Workplace Safety and Health Culture

***Recommendation 1***

The Review Committee challenged the Manitoba Government and the people of Manitoba to create a workplace safety and health culture. This culture would be supported by action in four separate priority areas:

- public awareness and education
- training
- prevention
- responsibility

The Committee's report calls for wide ranging initiatives in each area. The Manitoba Government accepts the Review Committee's analysis of the priority areas for creating a workplace safety and health culture. It will now set about implementing the Review Committee's recommendations.

# Public Awareness and Education

***Recommendations 2 to 9***

The Review Committee called for an ongoing public-awareness campaign intended to make Manitobans aware of the risks of workplace injury, the cost of those injuries to the economy, and their workplace safety and health rights and responsibilities. The campaign would involve the mass media, industry, labour and professional organizations, and the public education system.

## IMPLEMENTATION

### Public Awareness and Education Initiatives

The Workplace Safety and Health Division and the Workers Compensation Board have begun work on a public-awareness campaign. The Government looks forward to the participation of the private sector, labour, crown corporations, provincial government agencies, other levels of government, and prevention organizations.

The Provincial Farm Safety Coordinator will work closely with farm organizations to develop a farm safety component of this public awareness campaign.

The Workplace Safety and Health Division will work with the Workers Compensation Board to assist in the establishment of industry-based safety associations, and encourage the growth of a strong network of prevention organizations.

The Division will also work with government departments and agencies responsible for the education system to improve safety and health education.

A Department of Labour and Immigration, Workers Compensation Board, and Department of Education, Training and Youth working group will take steps to improve safety and health education in schools.

The Manitoba Government will work with the appropriate bodies to improve health and safety training at post-secondary educational institutions in a manner that respects the autonomy of these institutions.

Funding for public awareness, education and prevention initiatives will be provided by the appropriate agencies and organizations.

# Training

***Recommendations 10 through 19***

The Review Committee concluded that proper training was one of the most important elements in an effective injury prevention strategy. This was underlined by the fact that new workers—and young workers in particular—experience high injury rates. The Committee's report stressed the need for measures that ensure each worker is adequately trained to perform his or her job safely. In addition, the Committee recommended changes to the training programs provided by the Workplace Safety and Health Division.

## IMPLEMENTATION

### Changes in Legislation

The Manitoba Government will amend *The Workplace Safety and Health Act* to ensure that new workers receive the necessary orientation and training to understand and follow good safety and health practices.

### Training Initiatives

The Workplace Safety and Health Division will focus its training on core workplace safety and health issues (rights and responsibilities, inspections and investigations, Workplace Hazardous Materials Information Systems, and committee training). The Division will also:

- develop training that is targetted towards supervisory staff
- initiate train-the-trainer programs to increase the number of people who can

provide training

- deliver more training in rural and Northern Manitoba
- create an inventory of workplace safety and health training and trainers
- meet with provincial workplace health and safety associations on a regular basis
- encourage external organizations to develop industry-specific health and safety training
- ensure that its staff have sufficient training to allow them to carry out their duties
- include reports on training activities in the Labour and Immigration annual report

The Provincial Farm Safety Coordinator will also work with farm organizations to develop appropriate farm safety training materials and programs.

## Prevention

***Recommendations 20 to 37***

The Review Committee recognized that prevention is most effective in workplaces with clear safety and health programs. For this reason, it called on Government to clearly set out the required elements of a workplace safety and health program. The Committee also recognized the need to update existing regulatory standards and improve current procedures for the identification and prevention of occupational disease.

In addition, the Review Committee made recommendations on a number of specific issues including violence, conflict and harassment, second-hand smoke in the workplace, pregnancy, and ergonomics.

Ergonomics regulations are aimed at reducing musculoskeletal injuries (sprains and strains), which account for close to 50 per cent of Workers Compensation Board time loss claims. The Manitoba Government is committed to the development and adoption of a regulation to assist in the prevention of musculoskeletal injuries.

## Implementation

### Changes in Legislation

The Manitoba Government will amend *The Workplace Safety and Health Act* to:

- specify the elements of the safety and health program required in workplaces with 20 or more workers
- enable the Director of the Workplace Safety and Health Division to grant exemptions from regulations in situations where health and safety would not be compromised
- require a review of *The Workplace Safety and Health Act* and its administration every five years

### Updating Regulations

The Review Committee recommendations dealing with the following issues will be referred to the Regulation Review Process:

- updating the Workplace Health Hazard Regulation
- updating Occupational Exposure Limit regulations
- workplace violence, harassment, and conflict
- health hazards facing pregnant and nursing women
- prevention of musculoskeletal injuries

### Prevention Initiatives

The Workplace Safety and Health Division will work with the Workers Compensation Board on strategies that will improve the reporting, diagnosis, and prevention of occupational disease. This will include initiatives in continuing medical education regarding occupational health.

The Provincial Farm Safety Coordinator is working with farm organizations to develop farm safety and health program guidelines, and enhance child farm safety programs.

A recommendation to require bidders on large-scale construction projects to have industry association health and safety

program certification has been accepted in principle, as has a recommendation to provide incentives to encourage firms to acquire such certification. The Government will seek input from industry, labour, and the Workers Compensation Board to determine the most appropriate method of implementation.

The Manitoba Government will also consult with stakeholders, including workers and employers in the hospitality and entertainment industries, to develop a strategy to reduce worker exposure to second-hand smoke.

The issue of workplace impairment will be referred to the Minister's Advisory Council on Workplace Safety and Health.

## Responsibility

**Recommendations 38 to 56**

The Review Committee recommendations proposed strengthening and clarifying the roles of those in the workplace who have responsibility for health and safety, and increasing the effectiveness and fairness of the enforcement and appeals procedures.

The Committee noted that non-compliance with safety and health improvement orders presented a significant problem. Despite the ability to obtain an extension to the deadline for compliance, there is approximately 30 per cent non-compliance with improvement orders by the required date. For the majority of Manitoba employers, who do comply, this situation contributes to the loss of a level playing field. Non-compliance with improvement orders must be dealt with fairly and expeditiously, however, prosecution, which is costly and time-consuming is not an efficient mechanism for addressing this problem.

In addition, the Review Committee recommended that inquests be ordered following traumatic workplace fatalities and called on the Manitoba Government to address jurisdictional issues with the Federal Government and the Government of Saskatchewan.

### Implementation

#### Changes in Legislation

***Workplace Safety and Health Committees and Representatives***

The Manitoba Government will amend *The Workplace Safety and Health Act* to:

- allow for Workplace Safety and Health Committees and Representatives to conduct inspections, investigate injuries, and assess workplace safety and health programs
- allow for Workplace Safety and Health Committee worker co-chairs and Representatives to be involved in the resolution of work refusals
- require employers to respond to recommendations of Workplace Safety and Health Committees and Representatives in a timely fashion
- clarify protection from loss of pay and benefits while participating in Workplace Safety and Health Committee and Representative activities, and when receiving workplace safety and health training
- require employers to permit Workplace Safety and Health Committee worker co-chairs (or designates) and Representatives to accompany Safety and Health Officers on inspections
- require that Workplace Safety and Health Committees and Representatives be provided with reports on inspections, audits, investigations, and monitoring

***Clarification of responsibilities***

The Manitoba Government will amend *The Workplace Safety and Health Act* to:

- provide protection from discipline to those who take action to prevent immediate injury to any person in the workplace
- clarify the health and safety responsibilities of contractors, owners, and suppliers

***Enforcement and appeals***
The Manitoba Government will amend *The Workplace Safety and Health Act* to:

- introduce a system of administrative monetary penalties to be levied in the case of non-compliance with workplace safety and health improvement orders. (The schedule of penalties to be spelled out in a regulation, following consultation with stakeholders)
- enable a portion of workplace safety and health fines, levied by the courts, to be used for public education and promotion
- allow Safety and Health Officers to resolve complaints regarding disciplinary action, subject to appeal to the Workplace Safety and Health Division Director and the Manitoba Labour Board
- provide for a uniform, simplified system of appeal of Workplace Safety and Health Division orders

**Updating Regulations**
The Review Committee recommendations dealing with the following issues will be referred to the Regulation Review Process:

- the filing of Workplace Safety and Health Committee minutes with the Workplace Safety and Health Division
- the conditions under which a health and safety program is required for employers with multi-site workplaces, and an aggregate of more than 20 workers

**Responsibility Initiatives**
The Workplace Safety and Health Division will continue its policy of focussed enforcement.

Manitoba Labour and Immigration and Manitoba Justice will review the current criteria for the establishment of inquests following traumatic fatalities. The review will also examine other options for the independent review of such fatalities.

The Manitoba Government will work with the Federal Government and the Government of Saskatchewan to resolve jurisdictional issues identified in the Committee's report.

## Relationships

***Recommendations 57-58***
The Review Committee recommended that the Workplace Safety and Health Division and the Workers Compensation Board establish a formal joint planning process to allow for a more effective use of resources. It also recommended that they organize safety and health conferences.

### Implementation

The Workplace Safety and Health Division and the Workers Compensation Board will establish a joint planning process and coordinate regular safety and health conferences.

## Measuring our Progress

***Recommendations 59-62***
The Review Committee concluded that a 25 per cent reduction in the Workers Compensation Board provincial time-loss injury rate over a five-year time frame was an appropriate and achievable target. The Committee also noted that there was debate over the appropriate methodology to use in measuring and comparing workplace accident and injury rates.

### Implementation

The Manitoba Government will establish a five-year injury reduction target of 25 per cent in the Workers Compensation Board provincial time-loss injury rate.

The Workplace Safety and Health Division will employ the Workers Compensation Board methodology for calculating the provincial time-loss injury rate. In addition, the Division and the Board will regularly publish time-loss injury statistics, and will work with other jurisdictions to establish a national methodology for measuring workplace injuries.

# THE WORKPLACE SAFETY AND HEALTH ACT SUMMARY OF PROPOSED AMENDMENTS

## 1. Clarify Duties of Contractors, Owners and Suppliers

- Contractors (*persons who contract with employers or self-employed persons to do work*): require contractors to take reasonable precautions to ensure matters under their control do not create a risk to the safety and health of persons at the workplace, including the workers of the contracted employer or the self-employed person.
- Owners: require the owners of land or premises used as a workplace to take reasonable precautions to ensure that matters under their control do not create a risk to the safety and health of persons.
- Suppliers: require suppliers of biological or chemical substances, or any machine, device, tool or equipment to a workplace, to ensure that they are safe when used in accordance with the instructions provided by the supplier.

## 2. Provision of Safety And Health Information

- Require employers, contractors, owners, and suppliers to provide safety and health information to each other, and to Workplace Safety and Health Committees and Representatives.

## 3. Duties of Employer

- Train new workers before they begin work at a workplace.
- Ensure work is performed only by workers with appropriate training and experience, or under close and competent supervision.
- Implement a written safety and health program at workplaces with 20 or more workers. The elements of the program to include: a policy statement; hazard identification and control; emergency response procedures; assignment of health and safety responsibilities; a schedule for inspections; a control plan for chemical and biological substances; a training plan; investigation procedures; a strategy for worker participation; a system for coordinating and monitoring contracted employers or self-employed persons; and a procedure to review the program.
- Ensure all work is sufficiently and competently supervised.
- Enable Workplace Safety and Health Committee worker co-chair (or designate) and Representative to accompany a Safety and Health Officer during inspection or investigation.
- Respond to recommendations of Safety and Health Committee and Representatives within 30 days (if issue cannot be resolved it may be referred to a Safety and Health Officer).

## 4. New Duty for Supervisors

- Take reasonable precautions to protect the safety and health of workers and make them aware of risks in the workplace.

## 5. Workplace Safety and Health Committees and Representatives

- Clearly spell out the duties of the Workplace Safety and Health Committees and Representatives

- to make recommendations to the employer respecting safety and health in the workplace,
- to inspect the workplace at reasonable intervals, and
- to participate in workplace investigations.

- Workplace Safety and Health Committee worker co-chairperson and Representative to be involved in the resolution of a right to refuse situation.
- Workplace Safety and Health Committee and Representative to be provided copies of safety and health inspections, audits, investigations, and monitoring reports.
- No loss of pay or benefits for Workplace Safety and Health Committee and Representative activity.
- Education leave for Workplace Safety and Health Committee member/Representative amended from 16 hours to 2 days.

## 6. Discriminatory Action

- Amendment to require Safety and Health Officers to investigate and resolve discriminatory action complaints rather than referral to Labour Board (Officer's decision may be appealed).
- Discriminatory action prohibited when a person acts, with reasonable grounds, to prevent injury of another person.
- Clarify that worker to be assigned alternate work with no loss of pay or benefits when affected by work refusal or stop work order.

## 7. Streamline Appeals Process

- Safety and Health Officer's decision appealed to Director within 14 days; Director's decisions appealed to Labour Board within 14 days.

## 8. Exemptions/Variance

- Director may grant exemption from regulation after affected parties have been consulted and only when safety and health of workers is not jeopardized.
- Director may vary the requirements for a Workplace Safety and Health Committee for multiple site workplaces or where multiple committees within one workplace are advantageous.

## 9. Inspections/Investigations

- Enable Safety and Health Officers to require a demonstration of the use of machinery, equipment etc. for the purpose of an inspection, investigation or inquiry.
- Enable the Director of the Workplace Safety and Health Division to require the employer to perform tests and provide reports.
- Enable Safety and Health Officers to discontinue stop work orders rather than the Director.
- Administrative penalty system for non-compliance with improvement order. (schedule of penalties to be stipulated in a regulation, following consultation)

## 10. Allocation of Workplace Safety and Health Fines

- Enable a portion of workplace safety and health fines, levied by the courts, to be used for public education and promotion.

## 11. Regulation Making Authority

- Update regulation making authority, including authority to address harassment, violence, musculoskeletal injuries and pregnant workers.

## 12. Review of The Act

- Require the Advisory Council on Workplace Safety and Health to review the Act and administration of the Act at least once every five years.